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is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990). Note that, in some circumstances, it is permissible to use multiple references in a 35 U.S.C. 102 rejection. See MPEP § 2131.01." (Emphasis added)

Kindly note that it is the "identical invention ... as in contained in the claim" that must be present in a single prior art reference. Therefore, unless the invention defined by the claim is shown in the reference, the §102 rejection must be withdrawn. This standard is no different for so-called business method patents as it is for any other process or method patent.

Indeed, the Director of the Group to which the Examiner belongs (3600), John J. Love has reiterated: "The Court has, however, stated that claims drawn to a method of doing business should not be categorized as a "business method" claim, instead they should be treated like any other process claim. *State Street Bank & Trust Co. v. Signature Financial Group, Inc.* 47 USPQ2d 1596, 1604 (Fed. Cir. 1998)." Business Method Patent Application, Presented at AIPLA Spring 2001 by John J. Love, Wynn W. Coggins John J. Love, Director, Technology Center 3600 (also available on the USPTO Web site).

Therefore, to anticipate the above-listed claims, the Healy et al. reference must disclose the identical inventions as are defined by these claims - and these claims are to be examined using the same standards that are mandated for any other method or process.

Analysis of the Healy et al. reference reveals that it does not teach, disclose or even suggest the same or even similar inventions as are defined in the claims of the present application.

Claim 1 recites:

A method of categorizing a customer, comprising the steps of:
selecting a measure on which the status of the customer is to be analyzed;
selecting a calculation period;
selecting a comparison method;
computing a lifecycle factor, the lifecycle factor being related to both a size and a growth of the customer according to the selected measure, both the size and growth being determined over two selected calculation periods using the selected comparison method, and

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categorizing the customer by evaluating a plurality of categorization criteria, at least one of the plurality of categorization criteria including the computed lifecycle factor.

At the outset, the Office's attention is drawn to the preamble, which states that the claimed method is a method for categorizing a customer. The body of the claim recites specific steps to accomplish this method for a customer. Healy does not categorize a customer. Healy et al.'s method is to size a market in a subregion of a region. Healy et al. are unconcerned with categorizing a single customer, as their method is limited to populations of customers and markets of customers. "This invention relates to an apparatus, method, and system that satisfies the need to produce consistent, reliable, refinable localized market data". Column 1, lines 49-52. Thus, Healy cannot be said to teach any method of categorizing a single customer, as claimed herein.

The Office points to Healy's "propensity-to-buy" rating as teaching the first claimed step of claim 1 of "selecting a measure on which the status of the customer is to analyzed." Healy et al.'s "propensity-to-buy" rating is not a measure on which a customer is analyzed, as required by claim 1. The propensity-to-buy rating is a rating (e.g., from 1 to 100) that is assigned to a given category (age bracket, income bracket, occupation) for a given population. Therefore, not only is the propensity-to-buy rating simply assigned (no means of determining this number is given in the Healy et al. reference) and not only is the rating for a population (e.g., 40-50 years old), but the rating itself is but a number from 1 to 100, for example. Therefore, is cannot be said that Healy et al.'s propensity-to-buy is a measure on which the status of a customer is to be analyzed. The propensity-to-buy does not apply to a single customer, but only to a population (e.g., a population of persons, a population of households or a population of companies - see Column 6, lines 8-11). Finally, the propensity-to-buy rating is but an indication of how likely a given population is to purchase specified goods or services. It is not a measure on which the status of a customer may be analyzed. According to the present invention, such a measure may be, for example, number of orders, quantity of purchase and revenue, as claimed in claim 2 and corresponding system and media claims.

For purposes of §102, the Healy et al. reference would have to at least teach a method of

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categorizing a customer (which it does not), as well as selecting a measure on which the status of a customer is to be evaluated, which it also does not teach or remotely suggest. The applicant is aware that claim terms during prosecution must be given their broadest reasonable scope. However, such broadest reasonable scope cannot contravene the plain meaning of the terms of the claims for the purposes of supporting an anticipatory rejection.

The Office then points to column 6, lines 12-16 as allegedly teaching a step of selecting a comparison method. However, the cited passage does not teach or even suggest any comparison at all. Claim 1 and its corresponding system and method claims recite that the size and growth are determined over two selected calculation periods using the selected comparison method. No such comparison over two selected calculation periods is disclosed in Healy et al. The cited passage in Healy et al. relied upon to support the Office's contention that the independent claims are anticipated merely states that the propensity-to-buy rating is assigned to a given population. Where is the comparison method selected in this passage or in the Healy et al. reference as a whole? Assigning a propensity-to-buy to a given population (e.g., 40-50 year olds) is not selecting a comparison method. Therefore, it is respectfully submitted that the Healy et al. reference does not teach the recited comparison method selecting step either.

The Office then cites Healy et al.'s rated buying population as corresponding to the recited lifecycle factor (LCF). This claimed step requires that the computed lifecycle factor be related to both the size and the growth of the customer according to the selected measure. At the outset, Healy et al.'s rated-buying population is not related to both the size and the growth of a customer according to the selected measure. Indeed, Healy et al.'s "rated buying population is computed for each region or subregion" Column 6, lines 27-28. Therefore, the rated buying population is not computed for a given customer, as required by claim 1 and its corresponding system and method claims, but instead applies only to a region or subregion. As noted in Column 6, lines 34-36, Healy et al.'s rated buying population for a category is computed by multiplying the propensity-to-buy rating by the population falling within the category. This is wholly unrelated to calculating a lifecycle factor for a customer, as claimed herein.

It is recognized that identical words need not be used in the cited reference for anticipation purposes. However, given that the Healy et al. reference does not teach any method

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of categorizing a customer, the Office's reliance upon Healy et al. is believed to be unsupported by the reference itself and in error.

Lastly, the Office points to column 6, lines 20 and 21 as teaching the categorization criteria. However, these alleged "categorization criteria" in the reference are only inputs from "an industry expert" and include product, geography, market segment, provider and time. However, claim 1 and its corresponding system and media claims require that at least one of the categorization criteria include the computed lifecycle factor, which must be computed according to the "computing a lifecycle factor" and subsequent claimed steps. Column 6, lines 20 and 21 is a laundry list of classifications that are wholly unrelated to a lifecycle factor or any categorization of a customer.

Healy et al. disclose methods, systems and media for sizing a market (see the specification thereof in its entirety and each independent claim thereof) - and does not teach or suggest any method, system or media for categorizing a customer. As the independent claims are not anticipated by the Healy et al. patent, neither can the respective dependent claims thereof be anticipated. Reconsideration and withdrawal of the §102(b) rejections are respectfully requested.

Claims 6, 7, 20, 21, 34 and 35 are rejected as being unpatentable over a combination of Healy et al. and the book "Marketing" by Evans & Berman. Reconsideration and withdrawal of these rejections are respectfully requested, for the following reasons.

The Office states that Healy et al. fails to teach each individual stage of the product life cycle, and that such teaching is provided by Evans & Berman. However, it is respectfully submitted that even if Evans & Berman teach individual stages of a product lifecycle, such teaching would be irrelevant to the claimed inventions. The above-listed claims recite that is the customer and not the product that are assigned to one of a plurality of stages. The lifecycle of a customer is believed to be irrelevant to the lifecycle of a product. Indeed, even though a product purchased by a customer may be in a declining stage, the customer itself may be in a growing stage (and vice versa). Customers often buy several products or services from a supplier thereof, each of which may be in a different stage. Indeed, a customer classified as a "Growing" customer by the claimed method may be purchasing products and/or services that are in an introductory stage, a stable phase, declining stage or any stage. The stage of the product is believed to be,

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therefore, wholly unrelated to the categorization of the customer.

The office action further stated that "dividing the product lifecycle into four phases ... and further dividing the declining phase onto declining, defected and insignificant would have been obvious". The undersigned has no opinion as to the obviousness of such an action. However, such action has no bearing upon the claimed invention, as the claimed invention is related to the categorization of customers by carrying out the recited steps, and not the categorization of the lifecycle of a product or service. It is respectfully submitted, therefore, that a combination of Healy et al. and Evans & Berman would not have led the person of ordinary skill in the art to develop the claimed methods, systems and media of the present application. Reconsideration and withdrawal of the above-applied obviousness rejections are, therefore, respectfully requested.

Applicant's attorney, therefore, respectfully submits that all claims are allowable and that the present application in condition for an early allowance and passage to issue. If any unresolved issues remain, please contact the undersigned attorney of record at the telephone number indicated below.

Respectfully submitted,

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